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09/507,227	02/18/2000	Michael E. Ring	CRD 00036	7857

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EXAMINER

BURCH, MELODY M

ART UNIT	PAPER NUMBER
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3683

DATE MAILED: 01/23/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

# Office Action Summary

Application No.

09/507,227

Applicant(s)

RING ET AL.

Examiner

Melody M. Burch

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

## Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

## Status

- 1) ☒ Responsive to communication(s) filed on 20 October 2003.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

## Disposition of Claims

- 4) ☒ Claim(s) 1 and 3-31 is/are pending in the application.
- 4a) Of the above claim(s) 14-16 and 18-30 is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1,3-13,17 and 31 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

## Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

## Priority under 35 U.S.C. §§ 119 and 120

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).  
a) ☐ All b) ☐ Some \* c) ☐ None of:  
1. ☐ Certified copies of the priority documents have been received.  
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.  
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).  
\* See the attached detailed Office action for a list of the certified copies not received.
- 13) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application) since a specific reference was included in the first sentence of the specification or in an Application Data Sheet. 37 CFR 1.78.  
a) ☐ The translation of the foreign language provisional application has been received.
- 14) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121 since a specific reference was included in the first sentence of the specification or in an Application Data Sheet. 37 CFR 1.78.

## Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449) Paper No(s) \_\_\_\_\_
- 4) ☐ Interview Summary (PTO-413) Paper No(s). \_\_\_\_\_
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: \_\_\_\_\_

## **DETAILED ACTION**

### ***Continued Examination Under 37 CFR 1.114***

1. A request for continued examination under 37 CFR 1.114, including the fee set forth in 37 CFR 1.17(e), was filed in this application after final rejection. Since this application is eligible for continued examination under 37 CFR 1.114, and the fee set forth in 37 CFR 1.17(e) has been timely paid, the finality of the previous Office action has been withdrawn pursuant to 37 CFR 1.114. Applicant's submission filed on 10/20/03 has been entered.

### ***Election/Restrictions***

2. Claims 14, 15, 16, and 18-30 have been withdrawn from further consideration pursuant to 37 CFR 1.142(b) as being drawn to a nonelected species, there being no allowable generic or linking claim. Election was made **without** traverse in Paper No. 19.

### ***Claim Objections***

3. The numbering of claims is not in accordance with 37 CFR 1.126 which requires the original numbering of the claims to be preserved throughout the prosecution. When claims are canceled, the remaining claims must not be renumbered. When new claims are presented, they must be numbered consecutively beginning with the number next following the highest numbered claims previously presented (whether entered or not).

Misnumbered claim 2 has been renumbered as claim 31 since original claim 2 was cancelled on 7/15/02. Additionally, claim 10 should be reworded so that it depends from claim 31 instead of claim 2.

***Claim Rejections - 35 USC § 112***

4. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

5. Claims 4-9 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

Re: claim 4. The phrase "said operating means includes at least one valve means for connecting...to said operating means" in lines 2-4 is indefinite since the valve means is a part of the operating means resulting in the claim language reading as if the at least one valve means provides a means for connecting the source of fluid pressure to itself. Examiner also notes that it is unclear as to which element Applicant intends to refer to as the at least one valve means since in figures 1 and 4 the operating means 30 is broadly shown as an arrow pointing in the area of the slip clutch 130. Clarification is required. The remaining claims are indefinite due to their dependency from claim 4.

***Claim Rejections - 35 USC § 102***

6. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

7. Claim 1 is rejected under 35 U.S.C. 102(b) as being anticipated by US Patent 2940554 to Cameron.

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Re: claim 1. Cameron shows in figures 1-3 a hand brake assembly (which includes a hand brake 93) shown generally in figure 2 engageable with a railway vehicle, the hand brake assembly comprising: (a) an operating means 14,23,26,31,50,52 having at least a portion thereof or element 50 engageable with at least one gear 64 as disclosed in col. 6 lines 72-75 of a gear assembly 64,65 disposed in a housing member 6 of the hand brake assembly for operating the gear assembly in an application direction (or the brake application wear adjusting direction that causes element 50 to be unscrewed from element 52 moving the brake shoe 1 in the direction of wheel 2 as disclosed in col. 7 lines 15-29), (b) a source of fluid pressure or the air brake system disclosed in col. 2 lines 65-66 connected to the operating means for periodically supplying a predetermined pressure to the operating means at least sufficient to cause movement in such application direction of the at least one gear of the gear assembly, and (c) a means or brake control valve disclosed in col. 2 line 65 connected to the source of fluid pressure for initiating the supply of the predetermined pressure to the operating means thereby causing an automatic movement of the gear assembly in such application direction by the hand brake assembly particularly under conditions in which the brake shoe 1 wears.

***Claim Rejections - 35 USC § 103***

8. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

9. Claims 10, 11, and 31 are rejected under 35 U.S.C. 103(a) as being unpatentable over Cameron in view of US Patent 4525011 to Wilson.

Re: claim 10. Cameron, as modified, suggests in col. 2 line 65 of Cameron that the source of fluid pressure or the air brake system is pneumatic.

Re: claims 11 and 31. Cameron describes the invention substantially as set forth above including an operating means and a source of fluid pressure, but does not include the limitation of a timing means connected intermediate the operating means and the source of fluid pressure.

Wilson teaches in figure 1 the use of a brake control assembly including a timing means A,B connected intermediate an operating means or the brake cylinders connected to the brake line pressure controlled by brake application valve BAV as discussed in col. 3 lines 45-46 and a source of fluid pressure or main reservoir connected to line 2.

It would have been obvious to one of ordinary skill in the art at the time the invention was made to have modified the brake assembly of Cameron to have included a timing means connected intermediate the operating means and the source of fluid pressure, as taught by Wilson, in order to provide a means of controlling the charging of pressure of a circuit between the pressure source and the operating means of the brake assembly.

10. Claim 3 is rejected under 35 U.S.C. 103(a) as being unpatentable over Cameron in view of US Patent 4978178 to Engle.

Cameron describes the invention substantially as set forth above, but does not

include the limitation of an overload protection means.

Engle shows in figure 1 the use of a hand brake assembly including an overload protection means 15 connected to one of a source of fluid pressure 14 and an operating means.

It would have been obvious to one of ordinary skill in the art at the time the invention was made to have modified the hand brake assembly of Cameron to have included an overload protection means, as taught by Engle, in order to provide a means of protecting the operating means from receiving an excessive amount of pressure.

11. Claims 12 and 13 are rejected under 35 U.S.C. 103(a) as being unpatentable over Cameron in view of US Patent 5813731 to Newman, II et al.

Cameron describes the invention substantially as set forth above including the limitation of a means for initiating the supply of the predetermined pressure to the operating means, but does not specifically disclose that the means for initiating the supply of the pressure is one of a push button and a signal.

Newman, II et al. teach in figure 4 the use of a means for initiating the supply of pressure to an operating means being a valve with a push button 250.

It would have been obvious to one of ordinary skill in the art at the time the invention was made to have modified the means for initiating the supply of pressure to the operating means of Cameron to have included a push button, as taught by Newman, II et al. in order to provide a manual means of pressure initiation.

12. Claim 17 is rejected under 35 U.S.C. 103(a) as being unpatentable over Cameron in view of US Patent 3782785 to Budzich.

Cameron describes the invention substantially as set forth above, but does not include the limitation of the brake assembly including a slip clutch connected to the operating means to provide an overload protection means for the operating means.

Budzich teaches in lines 12-14 of the abstract the use of a brake assembly including a slip clutch to provide an overload protection means for an operating means of the assembly.

It would have been obvious to one of ordinary skill in the art at the time the invention was made to have modified the brake assembly of Cameron to have included a slip clutch, as taught by Budzich, in order to provide a means of preventing the occurrence of excessive brake application forces under extreme wheel deceleration.

#### ***Allowable Subject Matter***

13. Claims 4-9 would be allowable if rewritten to overcome the rejection(s) under 35 U.S.C. 112, second paragraph, set forth in this Office action and to include all of the limitations of the base claim and any intervening claims. With regard to claim 4, the operating means 14,23,26,31,50,52 of Cameron fails to show or suggest the limitation of at least one valve means.

#### ***Conclusion***

14. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Melody M. Burch whose telephone number is 703-306-4618. The examiner can normally be reached on Monday-Friday (7:30 AM-4:00 PM).




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If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Jack Lavinder can be reached on 703-308-3421. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9326.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is 703-308-1113.

mmb 1/8/04  
mmb  
January 8, 2004

  
JACK LAVINDER  
SUPERVISOR, CENTER EXAMINER  
TECHNOLOGY CENTER